

Notice of Allowability

Application No.

10/073,064

Examiner

Susan Ungar

Applicant(s)

CIOSEK ET AL.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to June 29, 2005.
2. ☐ The allowed claim(s) is/are 5, now renumbered 1.
3. ☒ The drawings filed on 12 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

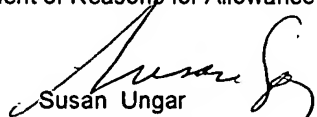
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Susan Ungar
Primary Examiner
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2. The Amendment filed March 9, 2005 in response to the Office Action of December 9, 2004 is acknowledged and has been entered. The Response to the restriction requirement filed June 29, 2005 in response to the Office Action of May 31, 2005 is acknowledged and has been entered. Claims 1-4 and 6-15 have been canceled and Claim 5 has been amended. Claim 5 is currently under prosecution.

3. The response (Paper No. 10) to the restriction requirement of December 9, 1996 has been received. Applicant has elected Group 1, SEQ ID NO:3 for examination with traverse. Upon review and reconsideration and Examiner has determined that the Examination of Groups 1 and 2 is not an undue burden and the invention of SEQ ID NO:5 is hereby rejoined with SEQ ID NO:3.

4. The application has been amended as follows:

In the specification:

On page 1, the following sentence was inserted prior to “The Field of the Invention”:

--This is a division of application number Ser. No. 08/438,265, filed May 9, 1995, now US Patent No. 6,300,482 which is a continuation of application Ser. No. 8/368,776, filed January 3, 1995, now US Patent No. 6,361,984. --

On page 25, line 6, after “Figure 2” the phrase “shows the” was deleted and the phrase --provides an-- was substituted.

On page 25, line 8, after “MDK1-T1” the phrase --(as set forth in SEQ ID NO:4) beginning with nucleotide 1913-- was inserted.

On page 25, line 8, after the term “and” the phrase --FIG. 2B shows the nucleotide sequence of-- was inserted.

On page 25, lines 8, after “MDK1-T2” the period “.” as well as the phrase “Sequences are shown” were deleted and the phrase --(as set forth in SEQ ID NO:6)-- was substituted.

On page 25, lines 12-13, the complete sentence “The missing nucleotide stretches are indicated (---).” Was deleted.

On page 25, line 14, after “Figure” the term “2B” was deleted and the term -2C-- was substituted.

On page 25, line 19, after “forms of MDK1 are shown.” the following was added:

--The missing nucleotide stretches are indicated (---). The sequences shown each begin at amino acid residue number 535 in MDK1 (SEQ ID NO:2), MDK1-T1 (SEQ ID NO:3), MDK1-T2 (SEQ ID NO:5), MDK1-Δ1 (SEQ ID NO:11) and MDK1-Δ2 (SEQ ID NO:12).--

5. It is noted that Applicant's response filed June 29, 2005 placed the application in condition for allowance based on the record at that time. The Examiner's Amendment is made in lieu of reopening prosecution in order to remedy informalities which were brought to Applicant's attention for the first time in the telephone Interview of September 1, 2005, accordingly, no further extension of time is required to make the Examiner's Amendment which places the Application fully in condition for allowance.

6. Authorization for this Examiner's Amendment was given in a telephone interview with Todd Spalding on September 12, 2005.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

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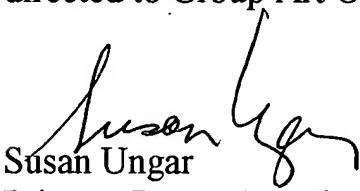
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(571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.


Susan Ungar
Primary Patent Examiner
September 1, 2005